

CHAPTER 872

Real Estate Tax Relief for Elderly or Totally and Permanently Disabled

EDITOR'S NOTE: Unless otherwise indicated, this chapter was enacted on November 21, 1972, and was amended on October 21, 1975, June 6, 1977, July 17, 1978, August 7, 1979, and November 19, 1991.

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CROSS REFERENCES

Exemptions for elderly and handicapped - see Code of Va. § 58.1-3210 et seq.
 Agricultural, Horticultural, Forest or Newly Annexed Real Estate Tax - see B.R. & T. Ch. 848
 Personal Property and Real Estate Tax - see B.R. & T. Ch. 860
 Exemptions and refunds generally - see B.R. & T. Ch. 864
 Exemption for certified solar energy equipment - see B.R. & T. Ch. 868
 Personal property tax relief for elderly or totally and permanently disabled - see B.R. & T. Ch. 873

872.01 DEFINITIONS.

As used in this chapter:

- (a) "Affidavit" means the Real Estate Tax Exemption Affidavit.
- (b) "County" means Loudoun County, Virginia.
- (c) "County Board" means the Board of Supervisors of the County.
- (d) "Commissioner of the Revenue" means the Commissioner of the Revenue of the County or any of his duly authorized deputies or agents.
- (e) "Dwelling" means the sole full-time residence owned and occupied by the person or persons claiming exemption, and includes a manufactured home used as the sole full-time residence owned and occupied by the person(s) claiming an exemption hereunder.
- (f) "Exemption" means exemption from the County Real Estate Tax according to the provisions of this chapter.
- (g) "Manufactured Home" means a structure subject to federal regulation which is transportable in one or more sections; is eight body feet or more in width and forty body feet or more in length in the traveling mode, or is 320 or more square feet when erected on site; is built on a permanent chassis; is designed to be used as a single-family dwelling,

with or without a permanent foundation when connected to the required utilities; and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure.

- (h) "Net worth" means the amount by which assets (including the present value of all equitable interests) exceed liabilities.
- (i) "Person" means a natural person.
- (j) "Permanently and totally disabled" means a person who has been certified by the Social Security Administration, the Department of Veterans Affairs or the Railroad Retirement Board, or if such person is not eligible for certification by any of these agencies, by a sworn affidavit by two medical doctors who either are licensed to practice medicine in the Commonwealth or are military officers on active duty who practice medicine with the United States Armed Forces, to the effect that the person is permanently and totally disabled, and, in addition, who has been found by the Commissioner of the Revenue to be unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment or deformity which can be expected to result in death or can be expected to last for the duration of such person's life.
- (k) "Property" means real property.
- (l) "Taxable year" means the calendar year, from January 1 until December 31, for which exemption is claimed.

(Ord. 98-12. Passed 11-4-98; Ord. 01-09. Passed 9-17-01.)

872.02 EXEMPTION AUTHORIZED.

(a) Full Exemption. Real estate tax exemption is provided for qualified property owners who are not less than sixty-five years of age or who are permanently and totally disabled and who are eligible according to state law and the provisions of this chapter.

(b) Pro-Rated Exemption. A pro-rated exemption from real estate tax is provided for the real estate (and dwelling) which is (i) jointly owned by two or more persons and (ii) occupied as the sole dwelling of each such person, at least one of whom is at least age 65 or permanently and totally disabled, and who are eligible according to state law and the provisions of this chapter.

(c) Persons qualifying for exemption under this chapter shall also be exempt from the special tax levied on property within the Loudoun County Fire and Emergency Medical Services Tax District.

(d) Persons qualifying for exemption are deemed to be bearing an extraordinary real estate tax burden in relation to their income and financial worth.

(Ord. 01-09. Passed 9-17-01; Ord. 07-01. Passed 1-3-07; Ord. 07-15. Passed 12-18-07.)

872.03 ADMINISTRATION OF EXEMPTION.

The exemption shall be administered by the Commissioner of the Revenue according to the provisions of this chapter. The Commissioner is hereby authorized to make an inquiry of persons

seeking such exemption in conformity with the provisions of this chapter, including the requiring of answers under oath, as may be reasonably necessary to determine qualifications for exemption as specified by this chapter. The Commissioner may require the production of certified income tax returns, appraisal reports and any other pertinent documents to establish income and/or financial worth.

(Ord. 01-09. Passed 9-17-01.)

872.04 REQUIREMENTS FOR FULL EXEMPTION.

A full exemption shall be granted subject to the following provisions:

- (a) Ownership. The title of the property for which an exemption is claimed must be held on January 1 of the taxable year, by the person or persons claiming the exemption, each of whom must also be (i) 65 years of age or older, or (ii) permanently and totally disabled on December 31 of the year immediately preceding the taxable year. A dwelling jointly owned by a husband and wife, with no other joint owners, may qualify if either spouse is 65 years of age or older or is permanently and totally disabled.
- (b) Occupancy. The property must be occupied as the principal dwelling of the person or persons claiming the exemption, each of whom must also be (i) 65 years of age or older, or (ii) permanently and totally disabled on December 31 of the year immediately preceding the taxable year. The primary residence owned by a person otherwise qualified for exemption under this chapter who is not actually occupying the same while a patient in a hospital, nursing home, convalescent home or other facility for physical or mental care for an extended period of time shall continue to be deemed such qualifying owner's dwelling; provided, however, that such residence is not used by or leased to others for consideration.
- (c) Income. The gross combined income of the person or persons claiming the exemption during the calendar year immediately preceding the taxable year did not exceed seventy-two thousand dollars (\$72,000), provided that the first seven thousand, five hundred dollars (\$7,500) of income received by an owner during the calendar year immediately preceding the taxable year as compensation for permanent disability shall not be included in such total. "Gross combined income" includes all income from all sources of the owner or owners and of the owners' relatives living in the dwelling for which the exemption is claimed, including (by way of example and not limitation) interest income, dividend income and distributions from trusts and IRAs, provided that the first ten thousand dollars (\$10,000) of income of each relative, other than the spouse, of the owner or owners, who is living in the dwelling, shall not be included in such total.
- (d) Net Worth. The total combined net financial worth of the person or persons claiming the exemption as of December 31 of the calendar year immediately preceding the taxable year did not exceed four hundred forty thousand dollars (\$440,000). "Total combined net financial worth" shall include the value of all assets, including the present value of all equitable interests of the owner or owners and the owner's spouse, and shall exclude the

fair market value of the dwelling. In addition, the value of the parcel of land upon which the dwelling is situated, up to a maximum of 10 acres, shall also be excluded.

(Ord. 98-12. Passed 11-4-98; Ord. 01-09. Passed 9-7-01; Ord. 04-16. Passed 12-14-04; Ord. 06-14. Passed 12-5-06; Ord. 07-15. Passed 12-18-07.)

872.045 REQUIREMENTS FOR PRO-RATED EXEMPTION

A pro-rated exemption shall be granted subject to the following provisions:

- (a) Ownership. Property for which a pro-rated exemption is claimed may be jointly owned on January 1 of the taxable year by two or more individuals not all of whom are at least 65 years of age or older; however, the person or persons claiming the pro-rated exemption must be (i) 65 years of age or older, or (ii) permanently and totally disabled on December 31 of the year immediately preceding the taxable year. The joint owners shall furnish the Commissioner of the Revenue with sufficient evidence of each joint owner's ownership interest in the dwelling.
- (b) Occupancy. The property must be occupied as the sole dwelling of all the joint owners. The primary residence owned by a person otherwise qualified for exemption under this chapter who is not actually occupying the same while a patient in a hospital, nursing home, convalescent home or other facility for physical or mental care for an extended period of time shall continue to be deemed such qualifying owner's dwelling; provided, however, that such residence is not used by or leased to others for consideration.
- (c) Income. The gross combined income of all joint owners during the calendar year immediately preceding the taxable year did not exceed seventy-two thousand dollars (\$72,000), provided that the first seven thousand, five hundred dollars (\$7,500) of income received by an owner during the calendar year immediately preceding the taxable year as compensation for permanent disability shall not be included in such total. "Gross combined income" includes all income from all sources of the owner or owners and of the owners' relatives living in the dwelling for which the pro-rated exemption is claimed, including (by way of example and not limitation) interest income, dividend income and distributions from trusts and IRAs, provided that the first ten thousand dollars (\$10,000) of income of each relative, other than the spouse, of the owner or owners, who is living in the dwelling, shall not be included in such total.
- (d) Net Worth. The total combined net financial worth of all joint owners as of December 31 of the calendar year immediately preceding the taxable year did not exceed five hundred thousand dollars (\$500,000). Beginning as of December 31, 2008, and as of December 31st of each year thereafter, the limit on combined net financial worth shall be increased by an amount equivalent to the percentage increase in the Consumer Price Index. "Total combined net financial worth" shall include the value of all assets, including the present value of all equitable interests, of the owners and the owners' spouses, and shall include the fair market value of the dwelling, the land, and any other asset.
(Ord. 07-15. Passed 12-18-07.)

872.05 CLAIMING AN EXEMPTION.

(a) The person or persons claiming an exemption must file an Application for Real Estate Tax Exemption and Affidavit with the Commissioner of the Revenue, on forms supplied by the Commissioner, on or before April 1 of the tax year for which relief is sought. Those applying for an exemption for the first time must file on or before December 31 of the tax year for which relief is sought. Every third year from the date of the original Application, the person or persons claiming an exemption must file a new Application and Affidavit with the Commissioner. For the two years following the date of the original Application and all subsequent Applications, the person or persons claiming an exemption must file a Certification, on forms supplied by the Commissioner, stating their combined gross income and the total combined net worth of the owners and spouses. The Commissioner shall have the discretion to permit applicants to file after these deadlines in cases of genuine hardship.

(b) The Affidavit shall set forth, in a manner prescribed by the Commissioner, the names of the related persons occupying the dwelling for which the exemption is claimed, their gross combined income and the total combined net worth of the owners and spouses.

(c) If, after audit and investigation, the Commissioner determines that the person or persons are qualified for an exemption, he shall so certify to the County Treasurer who shall deduct the amount of the exemption from the claimant's real estate tax liability.
(Ord. 91-11. Passed 6-4-91; Ord. 01-09. Passed 9-17-01; Ord. 04-16. Passed 12-14-04.)

872.06 AMOUNT OF EXEMPTION.

(a) Amount of Full Exemption. The person or persons qualifying for and claiming full exemption shall be relieved of liability for the real estate tax levied on the qualifying dwelling and the land on which it is situated as set forth below.

<u>Annual Household Income</u> <u>(not including allowable</u> <u>deductions)</u>	<u>Amount of Exemption</u>	<u>Extent of Exemption</u>
Up to \$72,000	100%	Dwelling and the land on which it is situated, not to exceed 3 acres
Over \$72,000	0%	None

(b) Amount of Pro-Rated Exemption. The amount by which the person or persons qualifying for and claiming the pro-rated exemption shall be relieved of liability for real estate taxes levied on the qualifying dwelling and the land on which it is situated shall be calculated by multiplying the amount of the full exemption that would otherwise have been provided by a fraction that has as the

numerator the percentage of ownership interest in the qualifying dwelling and the land on which it is situated held by all such joint owners who are at least 65 years of age and as the denominator, 100%.

(Ord. 89-10. Passed 9-19-89; Ord. 01-09. Passed 9-17-01; Ord. 04-16. Passed 12-14-04; Ord. 07-15. Passed 12-18-07.)

872.07 ADJUSTMENT UPON CHANGE IN ELIGIBILITY.

If the qualifying property is sold, ceases to be the primary residence of the qualifying owner(s), or if the last qualifying owner dies during the taxable year, the exemption granted hereunder shall be adjusted by rating it for that portion of the taxable year prior to the date on which the property was sold or ceased to be the qualifying owner's primary residence, or the date of death of the last qualifying owner. Such prorated adjustment shall be based upon the number of complete months of the year that such property was properly eligible for the relief granted by this chapter.

(Ord. 01-09. Passed 9-17-01; Ord. 4-16. Passed 12-14-04; Ord. 07-15. Passed 12-18-07.)

872.08 CHANGES IN STATUS.

(a) The primary residence owned by a person otherwise qualified for exemption under this chapter who is not actually occupying the same while a patient in a hospital, nursing home, convalescent home or other facility for physical or mental care for an extended period of time, not intended to be permanent, shall continue to be deemed such qualifying owner's dwelling; provided, however, that such residence is not used by or leased to others for consideration.

(b) Except as provided in Section 872.08(a), above, changes with respect to income, financial worth, ownership of property, medical status or other factors occurring during the taxable year for which the Affidavit is filed, and having the effect of exceeding or violating the limitations and conditions provided in this chapter, shall nullify any relief of real estate tax liability for the then current taxable year and the taxable year immediately following.

(Ord. 04-16. Passed 12-14-04.)

872.09 FALSE CLAIMS.

No person shall intentionally make a false claim for an exemption.

(Ord. 01-09. Passed 9-17-01.)

872.99 PENALTY.

In addition to any other penalties provided by law, any person who intentionally makes a false claim for an exemption shall not be entitled to the exemption from taxation, if granted, but shall be liable for the full amount of tax due. In addition, such person shall be disqualified from re-applying for an exemption for a period of two years.

(Ord. 01-09. Passed 9-17-01.)